

## REMARKS

This Amendment is in response to the Final Office Action dated April 30, 2008 and the Advisory Action dated August 6, 2008. Claims 21-26, 41, 43, 44 and 46 remain pending in the present application. Claims 21-26, 28-32, 35-37, 39, and 41-45 are rejected. Claims 21, 41 and 43 have been changed, claims 28-32, 35-37, 39, 42 and 45 have been cancelled, and claim 46 has been added by this amendment. No new matter has been added. For example, new claim 46 is supported in various places in the specification, including pages 7, 9, 12 and 13.

Applicant has amended claims 21, 41 and 43 and cancelled claims 28-32, 35-37, 39, 42 and 45 from further consideration in this application. Applicant is not conceding in this application that the cancelled claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the remaining subject matter. Applicant respectfully reserves the right to pursue the original and other claims in one or more continuations and/or divisional patent applications.

### **§ 103 Rejections**

The Examiner rejected claims 21-22, 28-29, and 35-36 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,526,575 to McCoy et al. (“McCoy”) in view of U.S. Patent No. 5,099,319 to Esch et al. (“Esch”) and U.S. Patent App. Publication 2002/0166120 to Boylan III et al. (“Boylan”).

The Examiner also rejected claims 23-24, 30-31, and 37 under 35 U.S.C. § 103(a) as being unpatentable over McCoy, Esch, Boylan, and further in view of U.S. Patent Pub. No. 2008/0059997 (“Plotnick”).

The Examiner also rejected claims 25 and 32 under 35 U.S.C. § 103(a) as being unpatentable over McCoy, Esch, Boylan, and further in view of U.S. Patent No. 5,920,700 (“Gordon”).

The Examiner also rejected claim 26 under 35 U.S.C. § 103(a) as being unpatentable over McCoy, Esch, Boylan, Gordon, and further in view of U.S. Patent No. 6,253,079 (“Valentine”).

The Examiner also rejected claim 39 under 35 U.S.C. § 103(a) as being unpatentable over McCoy, Esch, Boylan, Plotnick, and further in view of U.S. Patent No. 5,913,039 (“Nakamura”).

The Examiner also rejected claims 41-45 under 35 U.S.C. § 103(a) as being unpatentable over McCoy, Esch, Boylan, and further in view of Nakamura.

To expedite prosecution, Applicant has amended claim 21 to include the subject matter of claim 42, claim 28 to include the subject matter of claim 45, and claim 35 to include similar subject matter.

Claim 21 recites a playtime lookahead window parameter that sets a time period requirement before the scheduled playout of a local spot at which time each of the remote site servers checks to report to the central server a spot missing at the remote site server.

None of the cited references used in the above rejections disclose or suggest the recited features including using a parameter to set a time to check before a scheduled playout, where remote server sites check for a local spot to be missing and report such to the central server site. For example, the Examiner states that Nakamura discloses video reproduction that is not delayed due to the time needed for locating the start of each data stream of the title of the transmission. However, nowhere does Nakamura disclose setting a time period requirement before the scheduled playout of a local spot at which time each of the remote site servers checks to report to the central server a spot missing at the remote site server.

In the Advisory Action dated August 6, 2008, the Examiner stated that references U.S. Patent Nos. 5,319,648, 5,930,233, 6,483,855, and 6,629,285 (“advisory action references” herein) teach reporting to a central server about missing packets or frame within a certain time window, and that therefore it would have been obvious to one of ordinary skill in the art to modify the combined method of McCoy, Esch, and Boylan to include missing local spot within a time window, as taught by the above U.S. Patent references with the benefits of standard acknowledging protocol of transmission to reduce transmission errors.

Applicant respectfully disagrees. The U.S. Patent Nos. 5,319,648, 5,930,233, 6,483,855, and 6,629,285 all describe protocols for retransmitting frames or packets. For example, Patent No. 5,319,648 discloses sending out checkpoint frames from a receiving unit at regular intervals indicating correctly received frames, or when a frame is detected missing. “I-frames” are retransmitted if a frame was missing, where the I-frame includes information surrounded by delimiter and address information (Abstract, 4:3-9). Patent No. 5,930,233 discloses transmitting frames with error-correcting and detecting bits, etc. (1:16-39), and delaying a retransmission request when a frame is missing in a received transmission (3:14-33). Patent No. 6,629,285 discloses transmitting data packets (abstract, 3: 13-25) and the transmitter retransmitting a missing data packet only after a predetermined time interval after the original transmission (2: 25-28). Patent No. 6,483,855 discloses transmitting information frames (2: 43-67), where if an error frame is received, the content of the error frame is presumed if a next frame is not received within a predetermined time lapse after receiving the error frame (6:1-50).

It would not be obvious to combine McCoy, Esch, and Boylan with systems providing time intervals for missing packets or frames, as in the advisory action references cited by the Examiner, to achieve the invention of claim 21. The advisory action references are concerned

with lower-level protocols which deal with packets or frames, where information is transmitted in multiple such frames and each frame includes header or delimiter information. In contrast, Applicant's invention of amended claim 21 sets a time period requirement before the scheduled playout of a local spot at which time each of the remote site servers checks to report to the central server a local spot missing at the remote site server. There is nothing disclosed or suggested in the advisory action references about program feeds and local spots, nor using such a time period requirement for the scheduled playout of local spots in a program feed system as recited in claim 21. Local spots are not analogous to frames or packets in the context of claim 21, since frames or packets are basic, essential units of network information based on a used network protocol and used with all transmitted information regardless of content or type, while a local spot is an amount of data organized and based on the type of content of the data. One of ordinary skill reading the advisory action references might add a predetermined time interval for frames or packets used in the network protocol-level operation of all information sent in a program feed system (if applicable), but such a person would not add a time period requirement relating to the scheduled playout of a local spot as recited in claim 21, since the advisory action references do not disclose or suggest such a feature.

Thus, none of the cited references disclose or suggest setting a time period requirement before the scheduled playout of a local spot at which time each of the remote site servers checks to report to the central server a spot missing at the remote site server.

In addition, these cited references do not disclose or suggest control parameters that specify requirements for availability of the local advertisements on the central site server to the one or more remote servers to allow playout of the local spots as recited in claim 21. Boylan's only embodiment of sending local advertisements from a central site server is one that transmits

local advertisements from a main facility 46 to the distribution facility 52 as part of the same global data stream in which global data is transmitted (paragraph [0061]), and does not provide control parameters to specify requirements for local advertisement availability on the central server. Boylan's local advertisements in this stream are simply available, or not, as dictated by the global data stream; the advertisements are automatically received in the stream and so are played at their existing place within the stream. Boylan allows local advertisements to be filtered at remote sites based on location or user (paragraph [0063]), but these local advertisements are still received in the stream, even if filtered. Boylan thus mentions or suggests nothing about specifying availability requirements of local spots on the central site to allow playout of the local spots, nor control parameters to specify such requirements. Furthermore, claim 21 would also not be obvious based on the combination of the cited references. A combination of McCoy and Boylan and Esch would not use the control parameters specifying requirements for availability of the local spots on the central site server to the one or more remote servers to allow playout of the local spots, since Boylan's data stream is not compatible with such control parameters as explained above. Nor would such a combination automatically switch between playout of the program feed and playout of each local spot in accordance with the recited availability control parameters received from the central site server. Boylan's global data stream provides local advertisements in pre-designated slots of the data stream (Figs. 7 and 10) which does not allow the automatic switching between playout of program feed and each local spot in accordance with the availability control parameters recited in claim 1.

Applicant therefore believes that claim 21 is patentable over McCoy in view of Esch, Boylan, Plotnick, Gordon, Nakamura, and the frame references.

Claims 22-26, 41, and 43 are dependent on claim 21 and are patentable over these same references for at least the same reasons as claim 21, and for additional reasons.

For example, claim 41 recites a staging lookahead window parameter that sets a time period requirement prior to a scheduled playout of each of the local spots at which time the local spot must be staged on the central site server for reception by the one or more remote site servers. This is not disclosed or suggested by the cited references. The Examiner stated that Nakamura discloses that video reproduction is not delayed due to the time needed for locating the start of each data stream of the title of the transmission request, at 4:40-44, and so it would be obvious to include a time window limit parameter to better synchronize two separate streams. However, Nakamura instructs locating a start of a data stream at a given time earlier than a transmission start time when the data stream is to be transmitted, and a device for locating the start of the data stream on receiving this instruction (7: 18-29). Nakamura provides a “given time” before a transmission start time to provide time to locate a start of a data stream in a server storage unit, i.e. search in storage for the data stream (3:2-7; 12:1-4). Claim 41, in contrast, recites that a staging lookahead parameter sets a time period requirement at which time a local spot must be staged on a central site server to be ready for reception by one or more remote site servers. This is not similar to Nakamura’s given time for locating a data stream. Nakamura’s data streams are already staged and ready to be transmitted; Nakamura only wants to reduce a delay caused by searching for the start of the data streams in storage. Nowhere does Nakamura disclose or suggest a time period requirement at which time a local spot must be staged on a central site server to be ready for reception by remote site server(s).

Claim 43 recites a minimum transit time parameter that indicates a minimum transit time needed to transmit a particular one of the local spots to one or more remote site servers, such that

in response to the remote servers determining that a time until a next scheduled playout of the particular local spot is less than the minimum transit time, the local spot is considered to be dead. The Examiner stated that Nakamura discloses that video reproduction is not delayed due to the time needed for locating the start of each data stream of the title of the transmission request, at 4:40-44, and so it would be obvious to indicate a minimum transit time needed to transmit a particular local spot prior to a scheduled playout as taught by Nakamura to better synchronize two separate streams. However, Nakamura provides a “given time” before a transmission start time that provides time to locate a start of a data stream in a server storage unit, i.e. search in storage for the data stream (3:2-7; 12:1-4). Claim 43, in contrast, recites indicating a minimum transit time needed to transmit a particular one of the local spots, such that when the remote site servers determine that a time until a next scheduled playout of the particular local spot is less than the minimum transit time, the local spot is considered to be dead. This is not similar to Nakamura’s given time for locating a data stream; Nakamura only wants to reduce a delay caused by searching for the start of the data streams in storage. Nakamura does not ever determine that a particular data stream is dead based on a given time parameter, and thus Nakamura does not disclose or suggest a minimum transit time as recited in claim 43.

New claim 46 recites that the control parameters include a stage manager lookahead parameter that specifies a lookahead time to retrieve a queue table indicating a queue of spots to be staged, wherein the lookahead time is used in a determination of which of the local spots should be staged for transmission. The above-cited references do not disclose or suggest such a feature.

In view of the foregoing, Applicant submits that claims 21-26, 41, 43, and 44 are patentable over the cited references, and respectfully requests that the rejections under 35 U.S.C. 103(a) be withdrawn. Applicant requests reconsideration and allowance of the claims as now presented.

Should any unresolved issues remain, the Examiner is invited to call the undersigned at the telephone number indicated below.

Respectfully submitted,  
SAWYER LAW GROUP LLP

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Date

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